

Jonathan O. Peña, Esq.  
CA Bar ID No.: 278044  
Peña & Bromberg, PLC  
2440 Tulare St., Ste. 320  
Fresno, CA 93721  
Telephone: 559-439-9700  
Facsimile: 559-439-9723  
Email: info@jonathanpena.com  
Attorney for Plaintiff, Phetsamay Kaomixay

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

Phetsamay Kaomixay,

Plaintiff,

v.

Kilolo Kijakazi, Acting  
Commissioner of Social Security,

Defendant.

Case No. 1:23-cv-00992-SKO

**STIPULATION AND UNOPPOSED  
MOTION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES  
AND EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
ORDER**

(Doc. 14)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of EIGHT HUNDRED TWENTY-FIVE DOLLARS and 45/100 (\$825.45) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of zero dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

1 After the Court issues an order for EAJA fees to Plaintiff, the government will  
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
4 to honor the assignment will depend on whether the fees are subject to any offset  
5 allowed under the United States Department of the Treasury's Offset Program. After  
6 the order for EAJA fees is entered, the government will determine whether they are  
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
9 determines that Plaintiff does not owe a federal debt, then the government shall cause  
10 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to  
11 the assignment executed by Plaintiff. Any payments made shall be delivered and  
12 made payable to Plaintiff's counsel, Jonathan O. Peña. Additionally, any payment of  
13 costs under 28 U.S.C. §1920 may be made either by electronic fund transfer (ETF) or  
14 by check.

15 This stipulation constitutes a compromise settlement of Plaintiff's request for  
16 EAJA attorney fees, and does not constitute an admission of liability on the part of  
17 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
18 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
19 Counsel including Counsel's firm may have relating to EAJA attorney fees in  
20 connection with this action.

21 This award is without prejudice to the rights of Counsel and/or Counsel's firm  
22 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the  
23 savings clause provisions of the EAJA.

24 Respectfully submitted,

25  
26 Dated: December 4, 2023

/s/ Jonathan O. Peña

JONATHAN O. PEÑA  
Attorney for Plaintiff

Dated: December 4, 2023

PHILLIP A. TALBERT  
United States Attorney  
MATHEW W. PILE  
Associate General Counsel  
Office of Program Litigation  
Social Security Administration

By: \* Justin Lane Martin  
Justin Lane Martin  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on Dec. 4, 2023).

### ORDER

Based upon the parties' Stipulation and Unopposed Motion for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation") (Doc. 14),

**IT IS ORDERED** that fees and expenses in the amount of EIGHT HUNDRED TWENTY-FIVE DOLLARS and 45/100 (\$825.45) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: December 6, 2023

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE